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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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087/609,612 01/26/1998 CHARLES M. LENDON JR.

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20557/012

EXAMINER

LIREN, H.

ART UNIT	PAPER NUMBER
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2411 18

DATE MAILED: APR 10 1998

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

- Responsive to communication(s) filed on \_\_\_\_\_  
 This action is FINAL.  
 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- Claim(s) 1 - 24 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) 23 - 24 is/are allowed.  
 Claim(s) 1 - 22 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- Notice of Reference Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Art Unit: 2611

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 9-14, 16 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of Cunningham et al.

Olson discloses a radio frequency management system for reallocation of radio spectrum comprising frequency reallocating means for reassign temporarily radio spectrum from a wireless communication network and means 302 for causing portable radio control signals to change their operating frequency and protocol to permit the devices to communicate over the temporarily assigned radio spectrum. Also disclosed by the portable devices is a frequency agile radio transceiver 232 for operating between different networks, a "protocol agile" operating circuit 302, 307, 308 for operating the frequency agile transceiver in accordance with one of the protocols as determined by a protocol control signal from 304 and adaptive control means for accessing the selected network. Olson does not disclose the system containing capacity detection means for generating a frequency request to reassign the temporary radio spectrum. However, such

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a technique is common as shown by Cunningham et al. He discloses a system in which channels, or radio spectrum, is temporarily "reassigned" based in response to a maximum capacity detection. Therefore, it would have been obvious to one having ordinary skill in the art to apply this channel reassigning technique of Cunningham et al to the system of Olson for the simple purpose of acquiring a more efficient system. As to the use of a digital interface and a modem for interconnecting the transceiver with external devices, such as a facsimile device, such a technique is well known in the art and therefore would have been obvious to one of ordinary skill in the art in order to provide the user with increased versatility.

As to the protocol agile portable radio specifically changing the radio frequency modulation protocol, since Olson discloses the changing form one system "protocol" to another, then it would have been obvious to one having ordinary skill in the art to also change the modulation protocol since one would want to properly adjust its transmission parameters for proper communication.

3. Claims 3, 5-8, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of Cunningham et al as applied to claims 1-2, 4, 9-14, 16 and 21-22 above, and further in view of Bi et al.

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Olson and Cunningham et al both discloses everything claimed as explained above except for the selection of the network based on particular factors recited in claims 3-8. However, such criteria used to select between areas are common as shown by Gillig et al. He discloses a system in which a network is selected based on the cost of the system. Therefore, it would have been obvious to one having ordinary skill in the art to apply this selection technique of Gillig et al to the modified system of Olson and Cunningham et al for the purpose of providing the user with the lowest cost available to the user. As to the other recited criteria, such factors would have been obvious to one of ordinary skill in the art since one would want to provide a system that is more flexible to the user.

4. Claims 23-24 are allowed.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Urban whose telephone number is (703) 305-4385. The examiner can normally be reached on 305-4700 from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reinhard Eisenzopf, can be reached on (703) 305-4711. The fax phone number for this Group is (703) 305-9508.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Edward Urban/skf  
November 26, 1996

*Edward Urban*  
EDWARD F. URBAN  
PRIMARY EXAMINER  
GROUP 2600